

*Hall-Rayford et al. v. Owens et al.,*

**Exhibit A to  
Plaintiffs' Verified Complaint  
for Civil Rights Violations**

## CHAPTER III. - ORGANIZATION

### Sec. 1. - Plan of government.

The form of government provided for in this Charter shall be known as the "Commission-Manager Plan." There is hereby created a Council of four Councilmen and one Mayor, elected in the manner hereinafter specified, which shall have full power and authority, except as herein otherwise provided, to exercise all powers conferred upon the City.

### Sec. 2. - Legislative body.

The Mayor and Council shall constitute the legislative and governing body of said City, possessing all the powers herein provided for, with power and authority to pass such ordinances and adopt such resolutions as they shall deem proper in order to exercise any or all of the powers possessed by said City. The Mayor shall be the Executive head of the City and shall possess the same voting powers as that of a Councilman.

(Amended 4-1-1963)

**State Law reference**— Mandatory that charter provide for a legislative body, MCL 117.3(a).

### Sec. 3. - Election of mayor, etc.

The Mayor and members of the Council shall be elected on a non-partisan ticket from the City at large and shall be subject to recall as hereinafter provided. No person shall be eligible to the Office of Mayor or Councilman, who is not twenty-one (21) years of age, a Citizen of the United States, and a resident of the City of Eastpointe at least two (2) years. Furthermore, no person shall be eligible to hold the office of Mayor or Council member who is in default to the City. The holding of such office by any person who is in such default shall create a vacancy unless such default shall be cured within thirty (30) days after written notice thereof by the Council or unless such person shall in good faith be contesting the liability of such default.

(Amended 4-5-1948; Res. No. 1669, § A, 6-21-2011)

**Editor's note**— Pursuant to the consent judgment and decree in United States v. City of Eastpointe, Civil Action No. 4:17-CV-10079 (U.S. District Court, Eastern District of Michigan, Southern Divisions, June 19, 2019, which decree expires four years from its effective date, beginning with the first general municipal election November 5, 2019, all elections are conducted using ranked choice voting. Ranked choice voting is the method of casting and tabulating votes in which voters rank candidates in order of choice and tabulation proceeds in rounds. The consent decree only applies to elections involving members of the Council and not the Mayor.

Sec. 4. - Term of office.

Each member of the Council shall be elected to serve a term of two years, provided, however, that at the first election under this Charter the two candidates for Councilmen receiving the highest number of votes and the Mayor shall be deemed to be elected and serve until April 1931; the remaining two shall be deemed to be elected and serve until April, 1930. The Mayor shall be elected for a term of two years. The Mayor and Council shall be the judge of election and qualification of its own members. The term of all elective officers shall commence at eight o'clock p.m. on the first Monday following their election.

**Editor's note**— The terms were increased to four years by Code §§ 2-20, 2-22, adopted pursuant to MCL 168.644e et seq.

Sec. 5. - Time of organization.

At eight o'clock p.m., on the first Monday following the regular Municipal Election, the Council shall meet at the usual place for holding the meetings of the legislative body of the City, for the purpose of organization. The Mayor shall preside at the first meeting under this Charter. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each month. The Mayor, any two members of the Council, or the Managers, may call special meetings of the Council, upon at least ten hours written notice to each member, served personally or left at his usual place of residence, provided, however, any special meeting at which all members of the Council are present shall be a legal meeting for all purposes, without such written notice. All meetings of the Council shall be public and any citizen may have access to the minutes and records thereof at all reasonable times. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings in the English language.

Sec. 6. - Quorum.

A majority of all the members elected to the Council shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The Council shall act only by ordinance or resolution.

Sec. 7. - Mayor.

The Mayor shall be presiding officer and executive head of the City, and perform such other duties as are or may be imposed or authorized by the laws of the State or this Charter. In times of public danger or emergency, he may, with the consent of the Council, take command of the police and such other departments and subordinates of the City, as may be deemed necessary by the Council, and maintain order and enforce laws. The Council shall also at the said first regular meeting after election, elect, by ballot, another member of the Council, Mayor pro tem, who, during the absence or disability of the Mayor to

perform his duties, shall act in the name and stead of the Mayor, and shall, during the time of such absence or disability, exercise all the duties and possess all the powers of the Mayor. The Mayor shall receive compensation of eight hundred dollars (\$800.00), per year, payable in monthly installments.

(Amended 4-5-1954)

**Editor's note**— The compensation is now determined by the local officers compensation commission, which is created in Code § 2-370.

**State Law reference**— Mandatory that charter provide for election of mayor, MCL 117.3(a).

#### Sec. 8. - Council.

Each Councilman shall be paid for his services the sum of fifty dollars (\$50.00) per month. Except for the purpose of inquiry, the Council and each of its members shall deal with the Administrative Branch of the City Government solely through the Manager, except in the Department of Finance and Law, and neither the Council nor any member thereof, shall give any order or direction, either publicly or privately, to any of the subordinates of the Manager.

(Amended 4-5-1954)

**Editor's note**— The compensation is now determined by the local officers compensation commission, which is created in Code § 2-370.

#### Sec. 9. - Vacancy.

A vacancy in any elective office, shall be filled by appointment by a majority of the remaining members of the Council. Such appointee shall hold office until the next regular Municipal Election or any special election, at which election a successor shall be elected for the unexpired term of the member in whose office the vacancy occurs. Provided, however, that the term of no member shall be lengthened by his resignation and subsequent appointment.

**State Law reference**— Authority that charter prescribe method for filling vacancy in office, MCL 201.37.

#### Sec. 10. - Absence from meetings.

Absence from five consecutive regular meetings shall operate to vacate the seat of a member, unless the absence is excused by the Council, by resolution setting forth such excuse and entered upon the Journal.

#### Sec. 11. - Bonds of officers.

The Mayor and each member of the Council before entering upon the duties of his office, shall give a bond to the City of Eastpointe, in the sum of five thousand dollars (\$5,000) (City to pay the premium thereon) conditioned upon the faithful performance of the duties of his office. Said bond and the sureties thereof to be approved by the Attorneys of said City, and when so approved, recorded by the Manager in a record book kept for that purpose in the office of said Manager, and when so recorded, said bonds shall be filed with the City Treasurer.

**Editor's note—** Bonds are covered by a city insurance policy.

#### Sec. 12. - Justices of the peace.

Until otherwise provided by law, there shall be elected two Justices of the Peace as provided in Act No. 398, Local Acts of 1907 of the State of Michigan as amended, and there shall be elected annually two constables on the first Monday in April. Provided, however, that there shall be elected at the first election held under this Charter, two constables, who shall hold office until their successors are elected and qualified.

**Editor's note—** The cited Act has been repealed. The city no longer has justices of the peace or constables.

#### Sec. 13. - Departments.

The Administrative functions and powers of the City shall be divided into six departments as follows: Law, Finance, Public Works and Service, Public Welfare, Public Safety, and Public Health, subject to modifications as hereinafter provided.

**Editor's note—** The current departments are Law, Finance, Public Works and Service, Assessing, Building, Police, Fire, Parks and Recreation.

#### Sec. 14. - Directors of departments.

There shall be a director of every Department who shall have the supervision and control thereof and who, with the exception of the Director of Law, shall be appointed by and immediately responsible to the City Manager for the Administration of the Department.

(Amended 11-4-1930; Res. No. 1695, § A, 2-21-2012)

#### Sec. 15. - Supervision of manager.

The Director of every Department except that of Law shall be subject to the supervision and control of the Manager in all things except as otherwise herein specifically provided.

(Amended 11-4-1930; Res. No. 1695, § B, 2-21-2012)

Sec. 16. - Duties of departments.

The Council shall, by ordinance, determine and prescribe the functions and duties of each department, subject to the expressed provisions contained herein, and may by a vote of a majority of its members create new departments, combine existing departments, and establish temporary departments for special work.

Sec. 17. - Appointments.

The Council may appoint a City Manager and a City Attorney, and in the event a City Manager is not appointed, the Council may appoint a City Clerk who shall perform all duties of a city clerk herein called for to be performed by the Manager, each of whom shall be appointed for an indefinite period and be removable by the Council.

(Amended 4-6-1931; Res. No. 1579, § 2, 11-4-2008; Res. No. 1695, § C, 2-21-2012)

Sec. 18. - Manager.

The Manager shall be the chief administrative officer of the City. He shall be chosen by the Council solely on the basis of his executive and administrative qualifications. The Manager shall have had at least one year experience as manager or assistant manager in some city or village, and shall, during his term of office, reside in the City of Eastpointe; provided, however, he shall be a citizen of the United States of America. The Manager shall file a bond satisfactory to the Council.

Sec. 19. - Responsibility of manager.

The Manager shall be responsible to the Council for the proper administration of the affairs of the City and to that end shall make all appointments, including the heads of departments, except as herein otherwise specifically provided.

Sec. 20. - Manager to attend meetings.

He shall be required to be present at all meetings of the Council and be entitled to be present at all meetings of its committees and to take part in all discussions, but shall have no vote.

Sec. 21. - Compensation of manager.

The Manager shall receive a compensation to be fixed by the Council. If the Council at any time shall desire to remove the Manager, it may at any time upon the affirmative vote of a majority of the Council.

Sec. 22. - Assistant manager.

There shall be a City Assessor and also an Assistant City Manager, the latter shall be Deputy Clerk and shall perform the duties of the City Manager in case the Manager is sick, absent from the City or unable to perform his duties for any other reason.

(Amended 4-5-1954)

Sec. 23. - Clerk.

The Manager shall be Clerk of the Council, and shall, with the Mayor, sign and attest all Ordinances; and the Journal or Record of the Council's proceedings shall be prepared, kept and signed by the Manager and approved in writing by the Mayor. In addition, the Manager shall be the City Clerk and as such Clerk shall perform such other duties as are prescribed by this Charter, the General Laws of the State, or by the Council.

(Amended 4-5-1948)

Sec. 24. - Department of law.

The Director of Law shall be an attorney at law who shall have practiced in the State of Michigan for at least five years. He shall be the chief legal advisor of and attorney for the City and all departments and offices thereof in matters relating to their official powers and duties. It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the Department of Law; to attend all meetings of the Council; to give advice in writing, when so requested, to the Council, the City Manager or the director of any department; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of him by law; to prepare all contracts, bonds and other instruments in writing in which the City is concerned, and to endorse on each his approval of the form and correctness thereof; and to perform such other duties of a legal nature as the Council may by ordinance require. In addition to the duties imposed upon the Director of Law by this Charter or required of him by ordinance or resolution of the Council, he shall perform any duties imposed upon the chief legal officers of municipalities by law.

Sec. 25. - Opinion by attorney.

The Council, City Manager, the Director of any department or any officer or Board, not included in any department, may require the opinion of the City Attorney upon any question involving their respective powers and duties.

Sec. 26. - Director of finance.

The Director of Finance shall have direct supervision over the Department of Finance and the administration of the financial affairs of the City, including the keeping of accounts and financial records and collection of taxes, special assessments and other revenue, and such other duties as the Council may by ordinance prescribe or as directed by the City Manager.

(Res. No. 1695, § D, 2-21-2012)

Sec. 27. - City treasurer.

The Director of Finance shall be the City Treasurer, and shall perform all the duties required by this Charter, the General Laws of the State, or which the Council shall by ordinance prescribe or as directed by the City Manager.

(Res. No. 1695, § E, 2-21-2012)

Sec. 28. - Director of public works.

The Director of Public Works and Service shall, except as otherwise provided in this Charter, or by the Council, manage and have charge of the construction, improvement, repair, maintenance of streets, sidewalks, alleys, lands, bridges, viaducts and other public highways; of sewers, drains, ditches, culverts, canals and water courses; of municipal water supply, and all works, lands, water, lands under water, dams, pumping station, ways, mains, pipes, and all other works connected therewith, of all public buildings, public places and grounds; of the establishment, development and maintenance of parks and playgrounds but not the management and supervision of such parks; of all sewage and garbage disposal and reduction plants and all other public utilities owned or operated by the City. He shall have charge of the enforcement of all the obligations of privately owned or privately operated public utilities enforceable by the City; of the making and preservation of surveys, maps, plans, drawings and estimates for public work; of the cleaning, sprinkling and lighting of the streets and public places.

Sec. 29. - Director of public welfare.

The Director of Public Welfare shall have the supervision and management of all charitable, correctional and reformatory institutions and agencies belonging to the City; the supervision of the use of recreational facilities of the City, including parks and playgrounds; the inspection and supervision of public entertainment; the study and research into the causes of poverty, delinquency, crime, and the relief and prevention thereof; and other welfare and social problems in the community, and such other duties as the Council may by ordinance prescribe.

Sec. 30. - Director of public safety.



The Director of Public Safety shall have supervision of and enforce all the laws and ordinances relating to buildings, weights and measures, city pounds, the preservation of the public peace and order, and all other laws and ordinances, the enforcement of which is not specifically provided for in this Charter. He shall have the control and management of the Police and Fire departments, which departments shall consist of a chief of each and such other officers, patrolmen, firemen and other employees or members as the Manager may determine. Provided, however, that the Council may by ordinance provide for the so-called two-platoon system in the Fire Department.

Sec. 31. - State fire wardens.

The Director of Public Safety and the Chief of the Fire Department shall be vested with all the powers of State Fire Wardens.

Sec. 32. - Powers of sheriffs.

The Director of Public Safety and all members of the Police Department shall have the same powers as sheriffs and constables in the serving of civil and criminal process, in the making of arrests, both within and without the City, but within the State. They shall have the power to arrest, without process, all persons, who in the presence of the officer, shall be engaged in the violation of any law, and to detain such person until complaint can be made and process issued for their arrest, which complaint shall be made as speedily as possible after such arrest.

Sec. 33. - Chief of fire department.

The Chief of the Fire Department or person in charge of the department at any fire, may cause any building to be razed or destroyed, when deemed necessary, in order to arrest the progress of a fire, and no action shall be maintained against any person or against the City therefor.

Sec. 34. - Powers of director of safety.

The Director of Public Safety shall have such other powers and perform such other duties as the Council may by ordinance prescribe.

Sec. 35. - Director of public health.

The Director of Public Health shall be a man of recognized qualifications in Public Health administrations, and shall have and exercise for the City all the powers and authority conferred upon Boards of Health and Health Officers by the General Laws of the State and by this Charter. It shall be his duty to enforce all laws and ordinances pertaining to public health, and such other duties as the Council may by ordinance prescribe.

**Editor's note**— This is a county function now.

Sec. 36. - Purchasing agent.

The Council shall by ordinance provide for the creation of the office of Purchasing Agent, prescribe his duties and the rules and regulations relative thereto. The Manager or some officer, other than any person connected with the Department of Finance to be designated by the Manager, shall act as purchasing agent, and if so designated, shall act under the direction of said Manager, and if other than the Manager, he shall file a bond satisfactory to the Council.

Sec. 37. - Requisition.

No purchase shall be made except on a requisition by the head of a department, countersigned by the Manager and approved by the Director of Finance. No purchase shall be made in excess of appropriations.

Sec. 38. - City auditor.

The Council may by ordinance provide for the office of City Auditor and when such office is provided for, the Auditor shall be appointed by and be under the direction of the Council.

Sec. 39. - Board of supervisors.

The Council shall designate who shall represent the City on the Board of Supervisors of Macomb County, provided, however, that the City Assessor and City Attorney shall by virtue of their office be members of the Board of Supervisors and the Council may designate the Mayor and one of its members to serve on said board.

(Amended 11-7-1950)

**Editor's note**— The election of the board of supervisors is now governed by MCL 46.401 et seq.

Sec. 40. - Powers of supervisors.

The representatives of the City aforesaid, shall be endowed with all the rights, powers and duties conferred upon supervisors of townships by the General Laws of this State, except where otherwise provided for in this Charter.

Sec. 41. - Salaries.

The Manager shall fix, subject to the approval of the Council, the salary or compensation of the heads of all departments and all the employees thereof, except the Department of Law; provided that this shall not be deemed to include officers or employees required in the conduct of elections, either primary, general or

special. The Council shall fix the salary of the Manager and the City Attorney. Compensation of assistant and subordinate employees of the Departments of Law, other than Associate Counsel, and the compensation of the deputy and subordinate employees of the Clerk's office, shall be fixed by the Director of Law and the Clerk, respectively, subject to the approval of the Council.

(Res. No. 1695, § F, 2-21-2012)

Sec. 42. - Duties of appointive officers.

All appointive officers of the City shall perform such duties as shall be prescribed by ordinance, this Charter, the General Laws, and which may be required by the Council and the heads of Departments.

Sec. 43. - Relatives.

Relatives by blood or marriage of the Mayor or any Councilman, or the Manager, within the second degree of consanguinity or affinity, are hereby disqualified from holding any appointive office or employment during the term for which the said Mayor or any Councilman was elected, or during the tenure of office of said Manager.

Relatives by blood or marriage of any Department Head within the second degree of consanguinity or affinity, are hereby disqualified from being employed in the same Department, subsequent to the appointment of the Department Head.

(Amended 4-1-1957)

Sec. 44. - Council to fix compensation.

The compensation of all officers and employees of the City, including all election officials, shall be fixed by the Council, except as otherwise specifically provided herein.

Sec. 45. - Oath of office.

Every officer shall, before he enters upon the duties of his office, subscribe and file with the Manager an oath to support the Constitution of the United States and the Constitution of the State of Michigan, and faithfully perform the duties of the office to the best of his ability.

**State Law reference—** Oath of public officers, Const. 1963, Art. XI, § 1.

Sec. 46. - Bonds of officers.

The Council may require any officer or employee to give a bond for the faithful performance of his duty in such amount as it may determine, and the premium thereof shall be paid by the City, except that of the Manager.

Sec. 47. - When bond to be filed.

Any officer or employee, required by the provisions of this Charter, the General Laws of the State, by any ordinance of the City of Eastpointe, or by the Council, to give bond, shall not enter upon the duties of his office or employment until such bond shall be duly filed, approved and recorded.

Sec. 48. - Bonds to be filed with clerk.

All such bonds, except as herein otherwise provided, shall be approved by the Council and filed with the Clerk, excepting the bond of the Clerk, which shall be filed with the Treasurer.

Sec. 49. - Elective officers not to hold office.

No elective officer shall hold any office or employment, except that to which he was elected, compensation for which is paid out of Municipal money, nor be elected or appointed to any office created or the compensation of which was increased or fixed by the Council while he was a member thereof, until the expiration of one year from the date when he ceased to be a member of the Council, except as herein otherwise provided.

(Amended 2-18-1957)

**State Law reference—** Incompatible offices, MCL 15.181 et seq.

Sec. 50. - Bonds to be surety bonds.

All bonds required under the provisions of this Charter shall be surety company bonds.

Sec. 51. - Deposits and payments by city.

All taxes, special assessments and license fees accruing to the City, shall be collected by the City Treasurer. All moneys received by any officer or employee of the City for or in connection with the business of the City shall be paid promptly into the City Treasury, and shall be deposited with such responsible banking institution as may be designated by the Council and furnishing such security as the Council may determine, and all interest on such deposits shall accrue to the benefit of the City. The Council shall provide for the prompt and regular payment and deposit of all City moneys as required by this section. All fees received by any officer or employee in this official capacity shall belong to the City except as in this Charter otherwise provided. All appointive officers and employees shall receive an annual salary to be determined by the Council and no fees, percentages or commissions shall be paid to any appointive officer or employee.